

E3LMQUIS

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

12 Cr. 794 (RJS)

5 JOSE ANGEL QUILESTORRES,

6 Defendant.

7 -----x

8 New York, N.Y.

9 March 21, 2014

2:10 p.m.

10 Before:

11 HON. RICHARD J. SULLIVAN,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the

16 Southern District of New York

RAHUL MUKHI

17 Assistant United States Attorney

18 JOSEPH A. BONDY

Attorney for Defendant

21 ALSO PRESENT: MARK BRYZEK, IRS

22 KETTY LARCO, U.S. POSTAL SERVICE

23 Spanish Interpreter

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1 (Case called)

2 MR. MUKHI: Rahul Mukhi for the United States. Good  
3 afternoon, your Honor.

4 THE COURT: Mr. Mukhi, good afternoon. With you at  
5 counsel table.

6 MR. MUKHI: With me at the table are Special Agent  
7 Mark Brzyzek of the IRS and Postal Inspector Ketty Larco of the  
8 United States Postal Inspection Service.

9 THE COURT: Mr. Brzyzek and Ms. Larco, good afternoon.  
10 Please have a seat.

11 And for the defendant.

12 MR. BONDY: Good afternoon, your Honor, Joseph A.  
13 Bondy on behalf of the defendant, Carlos Jose Luis.

14 THE COURT: So we are clear, the name on the docket  
15 sheet is Jose Angel Quilestorres and in New Jersey it was just  
16 Torres, right?

17 MR. BONDY: Yes, your Honor.

18 THE COURT: Is there any objection to my referring to  
19 the defendant as Mr. Luis?

20 MR. MUKHI: No, your Honor.

21 THE COURT: Mr. Luis.

22 THE INTERPRETER: Your Honor, I beg apologies.  
23 Although we tested equipment and it worked. Apparently, the  
24 defendant does not hear me. I would ask to make sure that he  
25 does.

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1 THE COURT: Can you hear okay, Mr. Luis?

2 THE DEFENDANT: Yes.

3 THE COURT: Please have a seat.

4 We have many people here in the courtroom today, and I  
5 assume it's many friends and family members of Mr. Luis. Is  
6 that correct?

7 MR. BONDY: That's correct, your Honor.

8 THE COURT: Too many to mention, but welcome to all of  
9 you. This is a public courtroom, so everyone is welcome here.  
10 But your presence, I'm sure, means a great deal to Mr. Luis.  
11 Many of you wrote letters. I received --

12 MR. BONDY: Your Honor, I'm sorry. Mr. Luis informs  
13 that the headphones are once again not working.

14 THE COURT: It's coming from there and it may be that  
15 something is blocking.

16 Mr. Brzyzek, can you move to one side and see if that  
17 makes a difference.

18 I will just note for the record that Mr. Luis is  
19 proceeding through the services of a court-certified  
20 interpreter. He is wearing a headset that allows him to hear  
21 these proceedings translated from English into Spanish, which  
22 is his native language.

23 Mr. Luis, if at any point you have difficulty  
24 understanding these proceedings, then, of course, you should  
25 let me know because it's very important that you understand all

E3LMQUIS

1 aspects of this proceeding here today. All right?

2 THE DEFENDANT: Correct, yes.

3 THE COURT: We are here for sentencing. Mr. Luis pled  
4 guilty before me back on May 2 of 2013, I believe. We  
5 adjourned sentencing I think once. I want to go over with the  
6 parties what I have received in connection with sentencing.  
7 And if I've left anything out, you will let me know. I have,  
8 first of all, reviewed the presentence report prepared by the  
9 probation department. That report is 23 pages long. It also  
10 includes a recommendation from the probation department. I  
11 also then had Mr. Bondy's sentencing submission, which is a  
12 ten-page, single-spaced submission. It's characteristically  
13 thorough. I have known Mr. Bondy a long time and I've always  
14 known him to be very thorough and conscientious when it comes  
15 to matters such as this. And then that also includes, as I  
16 said before, numerous letters from friends and family members  
17 speaking to Mr. Luis's character, including letters from his  
18 children and others very close to him.

19 I have reviewed all of those and thank those who took  
20 the time to write. It's helpful for me to see this other side  
21 of a person who I don't know as well as you do. Thank you for  
22 doing that.

23 I have the government's sentencing memorandum, which  
24 is nine pages, double-spaced, dated March 4. And then I also  
25 reviewed the transcript of the guilty plea that was taken by

E3LMQUIS

1 me. So I was here for it, but I also reviewed it just to make  
2 sure. That's what I have in connection with sentencing. I  
3 also then received I think just yesterday from the government,  
4 it's a forfeiture order and --

5 MR. MUKHI: I have an extra copy of both the  
6 forfeiture order --

7 THE COURT: I have them. I think I left them in the  
8 other room. The forfeiture order and what else was in it?

9 MR. MUKHI: Restitution order.

10 THE COURT: I've had them. I have looked at them.  
11 Mr. Bondy. You received a copy of them as well?

12 MR. BONDY: Yes, I did, your Honor.

13 THE COURT: Let me just ask, are there any other  
14 materials that I've not referenced that should be before the  
15 Court that I have not mentioned?

16 MR. BONDY: No, your Honor.

17 THE COURT: Mr. Mukhi.

18 MR. MUKHI: No, your Honor.

19 THE COURT: Let's start with the presentence report  
20 prepared by the probation department. Mr. Bondy, you have  
21 received a copy of it, correct?

22 MR. BONDY: Yes, I have.

23 THE COURT: And you reviewed it with your clients?

24 MR. BONDY: Yes, your Honor.

25 THE COURT: Do you have any objections to what's in

E3LMQUIS

1 the report?

2 MR. BONDY: The only ongoing objection I have is one I  
3 lodged previously at paragraph 87. This is still a reference  
4 to the two 1028(a) counts of conviction rendering a total of 48  
5 months consecutive. In the objections it is noted that that is  
6 discretionary, but I nevertheless raise that just for clarity.

7 THE COURT: I don't think there is any dispute as to  
8 what's required. The government agrees that there is a  
9 two-year mandatory consecutive that I have to impose. There  
10 are two counts of that and so the second count can run  
11 concurrent with the first one, right, Mr. Mukhi, that's your  
12 position as well?

13 MR. MUKHI: That's correct, your Honor. It does  
14 affect the guidelines calculation since it needs to be factored  
15 into the ultimate range for the defendant, and we briefed that  
16 in our submissions.

17 THE COURT: But I don't think there is any dispute  
18 between you and Mr. Bondy on that?

19 MR. MUKHI: Correct.

20 THE COURT: Other than that, no objections, Mr. Bondy?

21 MR. BONDY: No, your Honor. Thank you.

22 THE COURT: Mr. Mukhi, do you have any objections?  
23 You have received a copy of the report?

24 MR. MUKHI: Yes, your Honor. Just what we just noted  
25 is our only objection with respect to the guidelines

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1 calculation.

2 THE COURT: I agree with respect to the guidelines  
3 calculation.

4 Mr. Luis, what we are going to do now is we are going  
5 to talk about the sentencing guidelines. Remember when you  
6 pled guilty I told you that the sentencing guidelines were this  
7 big book and this is a book that for those who perhaps weren't  
8 here, there is a book that is put out by a commission of judges  
9 and lawyers and experts in the field. And the way it works is  
10 that judges like me are required to consider this book before  
11 they impose a sentence on a person like Mr. Luis. And the way  
12 it works is that every crime or type of crime is covered by a  
13 chapter or a subchapter in this book.

14 And so for a case like this one involving fraud a  
15 judge is directed to go to the chapter that relates to fraud  
16 and then make certain findings of fact about the amount of the  
17 fraud and the circumstances of the fraud. And based on those  
18 findings, the judge is directed to assign points. It's a  
19 fairly mathematical exercise of adding points and sometimes  
20 subtracting points by going through the book. At the end of  
21 that process the judge comes up with a number that is referred  
22 to as the offense level.

23 The judge then goes to another chapter in this book  
24 that relates to criminal history and, not surprisingly, a  
25 person who has prior criminal convictions, a person who has

E3LMQUIS

1 committed crimes before is typically treated more harshly than  
2 a person who has no prior convictions. And so that kind of a  
3 person will often have a higher sentence as a result of their  
4 higher criminal history category. There are six criminal  
5 history categories. I is the lowest and VI is the highest. So  
6 the judge makes findings as to whether there are prior  
7 convictions and, if so, when, and for how long.

8 And on the basis then of those two findings, the  
9 offense level on the one hand and the criminal history category  
10 on the other, the judge then makes a determination as to what  
11 is the proper range for the sentence. If you go to the back of  
12 the book there is this chart, this table. The judge goes down  
13 this column, which reflects the offense level, and then across  
14 these columns to find the proper criminal history category.  
15 And where the two intersect, that is the spot that, according  
16 to the commission that prepares this book, would be the  
17 appropriate sentence.

18 We are going to spend a few minutes talking about  
19 that. It can sound a little technical, sometimes a little like  
20 accounting, but it is important. Ultimately, a judge is free  
21 to go above and below this book. But a judge does have to make  
22 findings in accordance with this book. We will do that. Once  
23 I've done that, then we will talk about the other factors that  
24 judges are required to consider. This book is only one factor.  
25 There are other factors. I discussed those with Mr. Luis on



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1 the day he pled guilty. I'll explain them again just so  
2 everyone understands the process.

3 We are going to start with the guidelines. I think  
4 there really isn't any dispute as to how the guidelines apply  
5 here. Most of the counts here in both the New York indictment  
6 and the New Jersey indictment are all grouped together, so  
7 that's Counts One, Two, Four, and Five of the New York  
8 indictment and Counts One and Two of the New Jersey indictment  
9 are grouped together under the fraud guideline. So that's  
10 2B1.1. The base offense level is 6. There is then a 20-level  
11 enhancement because of the amount of the loss. There is more  
12 than \$10 million in loss here. This is a huge, huge fraud  
13 here, as these things go, so that's a very high enhancement.  
14 20 levels because of the amount of the fraud.

15 There is then a four-level adjustment because Mr. Luis  
16 had a leadership role in an organization that was fairly  
17 extensive. And so pursuant to Section 3B1.1(a) of the  
18 guidelines, there is a four-level increase. That results in an  
19 adjusted offense level of 30.

20 Mr. Luis pled guilty well in advance of trial. He  
21 accepted responsibility, saved the Court and the government  
22 resources, so he's entitled to a reduction for that of three  
23 levels. That results then in a level of 27. So the total  
24 offense level for those counts is level 27.

25 Mr. Luis has no prior criminal convictions that are

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1 reported, so he's in criminal history category I, which is the  
2 lowest. So if we consider offense level 27 and the criminal  
3 history category of I, the guidelines range is 70 to 87 months.

4 There then is a mandatory consecutive sentence of two  
5 years because of the other crimes that were in the indictment  
6 relating to violations of Title 18 of the United States Code  
7 Section 1028(a). That's basically using somebody else's  
8 identity without their permission. And so that's a serious  
9 crime that Congress has said has to be two years on top of any  
10 other sentence that one receives.

11 So there are two of those counts, but I don't have to  
12 stack them. I can treat them as one, basically. So there is  
13 at least the 24-month sentence that has to be imposed  
14 consecutive to any sentence I impose for the other counts in  
15 the indictment. Everybody agrees so far?

16 MR. MUKHI: Yes, your Honor.

17 MR. BONDY: Yes, your Honor.

18 THE COURT: With that, the range would be 94 to 111  
19 months, correct?

20 MR. MUKHI: Yes, your Honor.

21 THE COURT: That's a pretty long period of time.

22 Now, this is not the only consideration. The other  
23 factors that the Court is required to consider and of course I  
24 will consider include, first of all, the defendant's own  
25 personal history. Mr. Luis is unique, he's unlike anyone I

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1 have ever sentenced before. He is a unique person. There is  
2 more to him than just this crime. And many of the letters that  
3 you have written attest to that. The fact that many of you are  
4 here today attests to that. But I have to look at the entire  
5 person, from his birth to his youth, to adulthood, to  
6 legitimate work history, to family circumstances, all the  
7 things that make a person who they are. So I have to consider  
8 that and make that relevant to sentencing.

9 I also, of course, have to consider the facts and  
10 circumstances of this crime. This is a serious, serious crime,  
11 went on for a long time, involved a lot of other people, and  
12 resulted in a massive fraud against the United States  
13 Government. And so I have to consider all the details of this  
14 crime, not just what it's called, but what it entailed, what  
15 Mr. Luis did, what others did. And the sentence I impose has  
16 to reflect the seriousness of this crime. It has to reflect  
17 all that he did and it has to promote respect for the law and  
18 also provide a just punishment for this crime. So I have to  
19 balance these things.

20 Another factor that I have to consider is the need to  
21 deter or discourage Mr. Luis and others from committing crimes  
22 like this in the future. It's the hope that the sentence I  
23 impose here today will send a message to Mr. Luis, but also to  
24 others, so that they will say in the future, it's not worth it.  
25 It's not worth committing a crime like this because the costs

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1 are too high. The risks are too great. And hopefully the  
2 message will be sent and received and there will be less crime  
3 as a result. So that's another factor that courts have to take  
4 into account.

5 Another factor I have to consider are Mr. Luis's own  
6 needs while he's in custody. So to the extent that he has  
7 medical needs or mental health needs, job training needs. Some  
8 defendants certainly need educational opportunities. And  
9 courts have to try to make sure they tailor the sentence to  
10 reflect those needs and address those needs.

11 Finally, I also have to consider the need to avoid any  
12 unwarranted sentencing disparity between the sentence I impose  
13 in this case and the sentence imposed on other people who are  
14 similarly situated.

15 The point is this. Before imposing a sentence I have  
16 to take a step back and say, well, I want to make sure the  
17 sentence I impose here is in line with, is consistent with  
18 sentences imposed on people who are similar, recognizing no two  
19 people are exactly alike, but recognizing also that it would be  
20 wrong for some people to get very harsh sentences and others to  
21 get relatively low sentences, even though they are pretty  
22 similar people and the crimes are pretty similar, all because  
23 of just simply who the judge is or who the lawyers are. I have  
24 to make sure I balance that out as well. Those are the factors  
25 I have to consider. It's a difficult thing balancing those

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1 different goals, those different objectives of sentencing.

2 It's the hardest part of my job, really.

3 What we are going to do now is, I am going to hear  
4 from Mr. Bondy. I'll then hear from the government. And after  
5 that, then, Mr. Luis, if you would like to speak, I'll give you  
6 an opportunity as well.

7 Mr. Bondy.

8 MR. BONDY: Thank you very much, your Honor.

9 If I may start with the gravity of the offense and the  
10 need to promote general deterrence. I believe those are two of  
11 the most significant factors before the Court right now. This  
12 is clearly a very, very serious offense, as your Honor has  
13 pointed out. It went on for a period of time. It involved a  
14 number of people. It involved people that Mr. Luis is in a  
15 leadership position over. Some of those instances it was  
16 perhaps more of the classic leadership position and others may  
17 be a little different. We will talk about that.

18 And the loss that was intended and ultimately caused  
19 was severe. And so the sentence that the Court must impose  
20 needs to take into account the scope of that crime and also  
21 needs to send a sufficient message to the public that they  
22 should not engage in this type of crime. As I stand here now,  
23 those are perhaps the toughest arguments to be made. But I  
24 will note that the intended loss, although it's what the law  
25 provides Mr. Luis to be responsible for, is very different than

E3LMQUIS

1 the actual gain. And in an offense like this I also note that  
2 there is no giant pyramid with a bunch of supreme leaders at  
3 the top but rather a number of very, very prevalent, smaller  
4 conspiracies engaged in the same type of conduct. As time has  
5 gone on, I believe that this group was not part of a larger  
6 group, but rather a group that came to pass because of  
7 opportunity, criminal opportunity.

8 Mr. Luis began, as many of the people in these types  
9 of schemes begin, your Honor, cashing checks, receiving checks,  
10 negotiating checks, doing so for a fraction of the face value  
11 of those checks and then parlayed that into a relatively  
12 sophisticated scheme involving the receipt of Social Security  
13 numbers from people, the filing of thousands of fictitious  
14 returns, the utilization of false W2 and employer information  
15 in each of those returns, and multiple acts in furtherance of  
16 the crime.

17 At the same time, the case exemplifies how a good  
18 person who has led a generally law-abiding life can fall into  
19 an enormous amount of trouble before too long under the federal  
20 laws. And so we admit the gravity of the offense. Mr. Luis  
21 understands what his conduct has caused. And he has taken  
22 steps to try to ameliorate that, which I will discuss in a  
23 moment. He is not one who grew up in a criminal environment,  
24 your Honor. He is not one who has a criminal lifestyle outside  
25 of this case. Rather, he is somebody who has worked very, very

E3LMQUIS

1 hard from the time he was young.

2 He grew up under conditions very starkly different  
3 from my conditions. He worked on a farm as a young man,  
4 bringing produce in from the fields so he could help support  
5 his family after his father passed away. He grew up in an  
6 environment where he watched his father and other family  
7 members being arrested and persecuted for political beliefs.  
8 And this was during the presidency of Joaquin Balaquer of the  
9 Dominican Republic. And that fostered an interest, a lifelong  
10 and ongoing interest in politics, community politics, and  
11 trying to support people's candidates. That culminated most  
12 recently, and I have a few pictures of Mr. Jose Luis in the  
13 sentencing submission, when he was lobbying for the  
14 presidential candidate in the Bronx and trying to solicit the  
15 local community votes for that candidate, candidate who he  
16 believed would be supportive of people.

17 And so from the time he was very young he had a  
18 community conscience, social conscience, family conscience, and  
19 he came to this country after learning his skill as an  
20 industrial mechanic, leaving home as a teenager, continuing  
21 like many people in the Dominican Republic do, to send monies  
22 back first to his family and then arriving in the United States  
23 back with his family.

24 Your Honor, many people come here and they come here  
25 illegally. That's perhaps one of the only recourses for a

E3LMQUIS

1 number of people. It's not the only one, but in this case  
2 that's what happened. And the reason that this man came to our  
3 community was because he believed that he could pursue better  
4 legitimate opportunities here, pursue better employment here,  
5 be in a better position to support his family here. And the  
6 reality of that was starkly different. Like many people who  
7 come here he found himself relegated to off-the-books labor,  
8 low-paying jobs, the inability to convert his status, and  
9 welling and mounting pressure in the form of children and  
10 relationship that fell apart.

11 But he has never wavered from his family commitment.  
12 As indeed a testament to that commitment from the time he was a  
13 child, we have perhaps 60, 65 people who have come. These are  
14 the times that make me wonder who might be there for me during  
15 my darkest hour. We wonder who when we are in trouble will  
16 stand up and be by our side and why. And the fact that this  
17 man has brought these people from throughout this city,  
18 throughout this country, and many people from the Dominican  
19 Republic to be here today, I submit, is a testament of the kind  
20 of character that he has had for many, many years.

21 There are often two sides to people. We all have two  
22 sides. While this man was involved in this very serious crime,  
23 stealing from the IRS, your Honor, he was also buying people  
24 who had no food groceries. He was paying funeral costs for  
25 people who couldn't inter their loved ones otherwise. He was



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1 supporting children whom he had not seen in Costa Rica for 12,  
2 13 years while their stepfather had brain surgery that he also  
3 paid for.

4 I understand where the funds came from, but it was the  
5 choice of how to spend those funds on people who had none.

6 The \$10 million is not what he pocketed. The \$10  
7 million was the total loss. Along the way he, too, had to pay  
8 people, pay check cashers proceeds in a number of businesses.  
9 If there is a deterrent lesson, not only is it a sentence to be  
10 imposed, but it is absolutely how nominal the gain can possibly  
11 be in this type of a scheme.

12 So we are standing here now with a man who has been  
13 estranged from parts of his family, who has been a force in the  
14 life of the three children who he has resided with in the  
15 United States. His daughter Paola, his oldest daughter, can't  
16 be here today, talks about how he would, after their parents  
17 had separated, always provided breakfast, always provided a  
18 home, always be there for her father. I'm sorry. He would  
19 always be there for his children. She reflects upon in the  
20 early days she would be happy when she just went to McDonald's  
21 to have a happy meal. Now it takes so much more.

22 We can't take back what has occurred and, your Honor,  
23 I don't know if this man was to work for the rest of his life,  
24 if he would ever be able to make much a dent in the forfeiture  
25 and restitution order that is about to be imposed. It's done.

E3LMQUIS

1 I understand that.

2 But what Mr. Jose Luis has tried to do in this case is  
3 accept his responsibility, be in a position not only to accept  
4 responsibility, but to see if he could mitigate the harm caused  
5 by his offense.

6 Your Honor, might I ask right now if I could have a  
7 side bar with the government.

8 THE COURT: All right.

9 (Pages 19-21 SEALED by the order of the Court)

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E3LMQUIS

(In open court)

THE COURT: Mr. Bondy.

MR. BONDY: Thank you very much, your Honor. In the end Mr. Jose Luis stands before you contrite. He will tell you that himself, extremely penitent for his conduct, a good person who has gotten into a dramatic amount of trouble, driven by the large loss figure under the fraud guidelines. That sentence will be accompanied by a consecutive term, and I would note that this man will not be eligible to participate in home confinement, halfway house, or any of the other types of early release programs that a person who is not a citizen or an illegal alien would be foreclosed from. As a result of that, he will not get some of the routine sentencing reductions that similarly-situated individuals would get simply because of their place of origin.

If I just ask, your Honor, please take into fact that this man came from a difficult set of circumstances, tried very hard to raise his family, has maintained extraordinary ties with the people in his family through the years and is looked upon as a leader, a kind person with a big heart, and somebody who if they were in trouble would immediately come to their aid. Your Honor, although people do bad things, it doesn't mean that they are not good people who are not deserving of consideration.

With that, your Honor, I will end. If the Court has

E3LMQUIS

1 any questions, I'm happy to address them.

2 THE COURT: No, I don't think I have any questions.  
3 Your written submission was very thorough, as were your remarks  
4 today. Thank you, Mr. Bondy.

5 MR. BONDY: Thank you very much.

6 THE COURT: Mr. Mukhi, I'm happy to hear from you.

7 MR. MUKHI: Just very briefly, your Honor.

8 As Mr. Bondy noted, the Court noted the seriousness of  
9 the offense here is very evident. The defendant was a leader  
10 of a scheme that robbed taxpayers of more than \$10 million. So  
11 that's really the overriding factor here, in the government's  
12 view, and he needs to be punished proportionally to the huge  
13 scope of his crime.

14 With respect to general deterrence, your Honor is  
15 aware this particular type of scheme is a nationwide scam  
16 that's literally stolen billions of dollars from the United  
17 States Treasury.

18 THE COURT: I'm sort of amazed that the United States  
19 is not even savvy enough to shut it down, given how long it's  
20 been apparent and basically simple the scheme is. It is sort  
21 of a shocker to me.

22 MR. MUKHI: It is --

23 THE COURT: I am not sure that's relevant to  
24 sentencing, but it is troubling to me as a citizen.

25 MR. MUKHI: Understood, your Honor. Obviously, the

E3LMQUIS

1 IRS is working very hard to shut it down. The postal  
2 inspection service, there has been testimony before Congress.  
3 It's of great concern to everyone. There is a gap in the  
4 system that allows this to occur. And the reason for it is the  
5 IRS has a statutory mandate to issue refunds as soon as claims  
6 are submitted. And that's because many taxpayers depend on  
7 getting their refunds to live. And so this scheme exploits  
8 that.

9 For example, one way one might imagine that this can  
10 be caught is to match the individual's claim versus the  
11 employer's claim that the employer is submitting. How do they  
12 get around that? Well, if an individual submits a claim in  
13 January, they file their taxes in January, submitting a claim  
14 for a refund. The employer doesn't have to file their forms  
15 until April 15, the deadline. So the IRS has a claim for a  
16 refund that's filed by an individual who very well might need  
17 that refund to survive, and under their statutory mandate the  
18 IRS can't wait and say no. We are going to wait until April  
19 until we see the employer file its paperwork so we can match  
20 this up.

21 And so that's just a function of the way it's set up  
22 and people have noted that it would require congressional  
23 action to fix that. Understandably, there is a concern that  
24 you want to get legitimate individuals who are filing  
25 legitimate claims their money as soon as possible. So what you

E3LMQUIS

1 have to do when systems like this are being set up is you have  
2 to catch up as it comes in from the individual and what are the  
3 flags for a fraudulent claim. And that's what's being done and  
4 that's what can be done.

5 Just with respect to general deterrence, this is  
6 really been a scourge of law enforcement, this particular type  
7 of scheme. Thousands of people have engaged in it. We really  
8 think that the Court should impose a sentence that sends a  
9 message that this conduct will not be tolerated and it should  
10 stop. Thank you, your Honor.

11 THE COURT: Thank you, Mr. Mukhi.

12 Mr. Bondy, do you want to say something?

13 MR. BONDY: Very briefly, I have noted the general  
14 deterrent need, and I would just ask that the Court consider as  
15 well in conjunction all of the other factors in imposing a  
16 sentence no greater than necessary.

17 In terms of personal deterrence, this person has been  
18 deterred. In terms of nature and circumstances, he came from a  
19 tough place. In terms of character, he is a good person loved  
20 by his family. I would ask you not to overweight the general  
21 deterrent need and weigh the gravity of the offense in this  
22 case, your Honor.

23 I do know that Mr. Jose Luis would like to address the  
24 Court.

25 THE COURT: Thank you, Mr. Bondy.

E3LMQUIS

1 Is it Mr. Luis or Mr. Jose Luis?

2 THE DEFENDANT: Jose Luis.

3 THE COURT: Mr. Jose Luis, you certainly are welcome  
4 to speak. You have a right to speak. If you'd like to say  
5 something, now is the time.

6 THE DEFENDANT: Good afternoon, your Honor, and to  
7 everyone present. This is my chance to apologize to this  
8 Court, to the country, to the institutions. I would also like  
9 to ask for a special favor. Those people who with their  
10 personal sacrifices managed that in the 4th of July 1776, the  
11 13 colonies that form the American continent became free from  
12 the British government. For me in that way the United States  
13 of America, where I have inflicted this pain, I am asking for  
14 apologies to the principal person, Benjamin Franklin, James  
15 Madison. He is the one who made a rough copy of the  
16 Constitution, together with the Constitution and the  
17 independence of the United States, that were responsible for  
18 the documents that formed this nation.

19 I would also like to ask for an apology for those  
20 citizens who are heroes who handed up their lives and their  
21 blood, in order to free our country from dictatorship,  
22 terrorism, and authorizes the totalitarian government, regime,  
23 in order to allow our people and our country to live in liberty  
24 and democracy.

25 I would also like to ask for an enormous apology to my

E3LMQUIS

1 children for the harm I have inflicted on them. They feel the  
2 pain that I am feeling at this moment, with the enormous harm I  
3 have inflicted on them because of my behavior, my conduct, for  
4 my corrupt behavior. I feel their pain. I can feel it because  
5 of the magnetism of the genes and Unitus. I apologize. They  
6 don't deserve to have to go through what they are going through  
7 now.

8 I also apologize to my mother, who is here with me  
9 today, that heroine who at the age of 37 became a widow because  
10 my father passed away. She had to fight very hard in order to  
11 help us get along. Her sacrifice was so great, that mother's  
12 sacrifice was so great. She remained on her own all her life,  
13 faithful to my father after his death. I am so sorry to cause  
14 this pain to my mother, who was always so proud of her  
15 children. It is not right that after so much sacrifice at this  
16 stage she should have to go through this kind of pain.

17 To my father and to my maternal grandparents, who were  
18 like parents to me. My father, who did not get the chance to  
19 live a long life. He died when I was a young boy. But I do  
20 remember beautiful and lovely things about him. A person with  
21 a high degree of ethics and morals from the very beginning.  
22 And a man who taught us good principles, a man who fought for  
23 the democracy of his country, who paid with very -- paid -- the  
24 consequences were grave for him. Political persecutions,  
25 physical mistreatment, economical, and prison. Who transformed



E3LMQUIS

1 his life, causing a cancer that ended his life when he was  
2 barely 39 years old. But before dying, he sewed the seeds of  
3 democracy. And that brought forth the year after his death,  
4 brought forth us.

5 My older brother, who is present here today, came from  
6 the Dominican Republic. He was barely 18 years or almost 18  
7 years when our father died. He continued giving us an example  
8 from the heart of the country, sewing, sewing the earth with  
9 his own hands and working the earth with the sweat of his brow,  
10 in order that the earth should give fruits and those fruits  
11 should feed us.

12 I don't want to bore you, your Honor. I would also  
13 like to recognize my mother's sister, who was also a fighter  
14 and suffered the same consequences. She worked very hard so  
15 that we should be able to study and so that we should be able  
16 to have enough to eat. She has always been the family's  
17 counselor, the one who has always wanted to be our guide and  
18 take us along the right path. I apologize to her because I  
19 have also let her down, all my family who is present here and  
20 all of those friends who are present here today. Today my  
21 family is in a sea of tears.

22 Every tear from my family is accorded freedom. But  
23 not the physical liberty, a liberty that we should never have  
24 to go through a situation such as this one again. And I am the  
25 only guilty party in this case.

E3LMQUIS

1           Because of my horrendous behavior, I am not only in  
2           prison, but my ethical and moral principles are, too. I  
3           promise everyone present today in this room, my family, the  
4           next time I am before a public such as this that I am before an  
5           audience, instead of being judged by the law that I have as a  
6           power broken, I shall be receiving prizes due to my services  
7           because I believe that man can do good and become good in spite  
8           of.

9           I don't ask you to understand me, because my actions  
10          have no kind of justification. They are atrocious and corrupt  
11          actions. I am only asking you to forgive me, to forgive me and  
12          have mercy on me.

13          Today I remember a phrase said by an English writer,  
14          Hawk Williams, in a book published under the title 50 Things  
15          That You Ought to Know About the World History when he said:  
16          Freedom is not so precious as to him who does not have it.

17          Thank you very much, your Honor, for giving me the  
18          chance to speak in this room that you are so honored, that you  
19          are in touch with and that you represent. Thank you to the  
20          representatives of the country. Thank you to my attorney for  
21          his excellent work. I recognize and realize that from the very  
22          day which I was arrested, 19th of September 2012, at no time  
23          were my rights as a human being violated, which is what made  
24          this grand wonder American nation greater every day, an example  
25          to the world with freedom, justice, and democracy. Thank you,

E3LMQUIS

1 your Honor. I ask you for my apologies. I present my  
2 apologies and may God bless this nation.

3 THE COURT: Thank you, Mr. Jose Luis.

4 Let me tell you the sentence that I intend to impose  
5 and explain my reasons for it. In this country judges are  
6 required to explain their sentences and offer reasons. And I  
7 think that's a good thing because a sentence imposed on one  
8 person will obviously affect that person, but it affects many  
9 other people as well, family members, friends, one life touches  
10 so many others, and the sentence imposed on one person is felt  
11 by many and sometimes by no one more than the children of that  
12 person. That's a sad reality, but it is true. It's not lost  
13 on me. But I think it's important that a judge then explain  
14 the reasoning, to articulate the different factors that led to  
15 the sentence that is ultimately imposed so you don't have to  
16 guess what I was thinking. You don't have to wonder. You  
17 don't have to surmise whether I was angry or whether one fact  
18 was most important. That's what I am going to attempt to do  
19 now.

20 I told you the different factors that judges are  
21 required to consider and I always start with the individual  
22 himself, the facts and circumstances of that person's life.  
23 Mr. Jose Luis is not a person who was born into wealth, far  
24 from it. He was born under difficult circumstances, had to  
25 work very hard, and his family had to work very hard just to

E3LMQUIS

1 put food on the table. I understand that and I respect that  
2 and I have great respect for your parents, Mr. Jose Luis, and  
3 the way you described what they did for you and for your  
4 siblings.

5 You weren't wealthy, certainly weren't born wealthy,  
6 but you were blessed with a family that cared about you and  
7 with parents who worried for you and taught you well, taught  
8 you right from wrong, taught you the value of hard work, taught  
9 you the importance of family and loyalty and honesty. On the  
10 one hand, I think it's obvious that you are a very intelligent  
11 man, very thoughtful man, very eloquent man. You're a  
12 charismatic person. And you have touched all the lives on all  
13 of the people that are here in some way or other and that's a  
14 credit to you. I have many sentencings where there is no one  
15 present or very small number present. I think the letters I  
16 received, numbers of people here speak to you and your  
17 character and the difference you made in the lives of people,  
18 family members and others. And so you deserve credit for that.

19 But at the same time you were blessed with, I think,  
20 intelligence and charisma and eloquence and the knowledge of  
21 right from wrong, and in some ways that cuts against you  
22 because I have a lot of defendants that I sentence who have  
23 been born into poverty but who never had your gifts of  
24 intelligence and eloquence and dynamism and who never had the  
25 blessings you did from parents who cared. Those are people who

E3LMQUIS

1 come to me almost lost and in some ways their criminal conduct  
2 is more excusable because they didn't know better.

3 In your case it's kinds of a two-edge sword because on  
4 the one hand it distinguishes you and makes you somewhat unique  
5 among defendants that appear in front of me. On the other  
6 hand, it makes you in some ways more morally culpable because a  
7 man with your eloquence and wisdom should know better.

8 And that leads me then to this crime. This is a very  
9 serious crime. You know that. I'm not hear to lecture you.  
10 But it is important for me to articulate and explain the  
11 reasons for my sentence, particularly with such a large crowd.  
12 And so this is a crime that went on for a long time, the entire  
13 purpose of which was to steal from the government of the United  
14 States.

15 On the one hand, that's, I guess, a very impersonal  
16 victim. It's not like stealing from a person on the street who  
17 you have to look into their eyes and take money from their  
18 pockets. But it is a government that is designed to serve  
19 people and serve communities. And so the staggering amount of  
20 loss here, \$10 million, more than \$10 million, if you think  
21 about what the government could do with that money in terms of  
22 educating children, in terms of providing health care for  
23 people who need it, providing food stamps and programs for  
24 children who are born into poverty, \$10 million can do a lot of  
25 good, an awful lot of good. And it was taken, stolen from a

E3LMQUIS

1 government that, as you acknowledged a moment ago, Mr. Jose  
2 Luis is supposed to be of the people, by the people, and for  
3 the people. So there are victims to this crime and it's not  
4 just an impersonal government in Washington or a bureaucracy  
5 that we call the IRS. It's an assault, really, to a whole  
6 community, to the entire nation. It's not just the dollar  
7 loss, though that's a staggering amount.

8 It's also a crime like this breeds great cynicism.  
9 People hear of it and think, what is wrong with government and  
10 what is the point of having a government that attempts to do  
11 good things for people and to provide services and goods to  
12 people in need if they can't carry it off. And I think that  
13 cynicism is in some ways more harmful than the theft because it  
14 makes people question their government and it makes them  
15 question the wisdom of programs designed to help others, makes  
16 them question the value of their taxes and a value of a regime  
17 that is supposed to be benign and supposed to be good.

18 Cynicism is a very dangerous thing and it leads people  
19 to do bad things and they don't believe their government and  
20 they question the ability and the wisdom of their government.  
21 It makes them disregard their government and it makes them  
22 disregard the laws that that government passes through elective  
23 representatives. And I think it leads to a society where there  
24 is less respect for others and less respect for institutions,  
25 and ultimately more crime and ultimately more violence. This

E3LMQUIS

1 is not a violent crime, but I think it contributes to very  
2 cynical mentality that does real violence in a sense to  
3 communities and to the nation as a whole. That's different  
4 than most cases involving fraud. Most cases involving fraud  
5 have victims that might be banks, or victims that might be  
6 other individuals, but they don't carry with them this heavy  
7 cynicism that undermines confidence in institutions, as you  
8 said before, that were created with the best of intentions and  
9 are designed to be truly helpful. So that has to factor into  
10 what I'm doing here. We have talked about the guidelines. The  
11 guidelines are just advisory. I don't have to follow them.

12 I've told you what the guidelines are here. But I  
13 keep coming back to, what does it mean for a man to engage in a  
14 crime with many other people, a crime for which they were the  
15 leader or a leader certainly that went on for so long a period  
16 of time that involved over \$10 million of loss against the  
17 government itself in this cynical fashion.

18 What would anyone who engages in that crime or anyone  
19 who hears about that crime would think would be an appropriate  
20 sentence, and I think most people would think that 10 or 15  
21 years would be appropriate, given the magnitude and the length  
22 of time that this crime took place over. I don't intend to  
23 sentence you to that high a sentence because I do think that  
24 these other factors of your character and these other traits  
25 that you've demonstrated are important ones and have to be

E3LMQUIS

1 reflected in the sentence.

2 But I do think that I just can't ignore the sheer  
3 magnitude of this crime and the need to send a message.  
4 Perhaps not so much to you, because I think you get it. I  
5 think you understand and I don't worry about you committing  
6 crimes in the future. But certainly to others who might be  
7 tempted to engage in a fraud of this type that they can't. We  
8 won't tolerate. We as a society just say no, enough. We must  
9 punish them. I think you are a good person, but I think the  
10 crime here just cries out for a very serious penalty.

11 When I factor in all of this, as well as the things we  
12 talked about before here at the side bar, I think certainly a  
13 sentence of seven years on the first count of the indictments  
14 is appropriate. That's 84 months. But then that has to be  
15 followed, has to be followed, I have no choice, by an  
16 additional two-year sentence.

17 So it's my intention to impose a sentence of nine  
18 years in total, seven years on the first counts and then two  
19 years mandatory consecutive on the 1028(a) counts. I think  
20 that certainly is something Congress has said I must follow and  
21 I think it's a sentence that considering all these different  
22 factors is appropriate, though I'm not unaware that it's going  
23 to be a harsh and a long sentence. But I think anything less  
24 than that would be inappropriate.

25 I say that respectfully because I think you're a man



E3LMQUIS

1 who is worthy of respect and I appreciate the respect you've  
2 always treated me in this courtroom. But I think that is the  
3 sentence that in my judgment is appropriate. It's my intention  
4 to impose that sentence to be followed -- I am not going to  
5 impose a term of supervised release. I am going to order that  
6 you pay restitution in the amount of loss here, which was over  
7 \$10 million, \$10,139,452.11 to be exact. I'll also order  
8 forfeiture for the same amount. There then is a mandatory  
9 special assessment of \$800, \$100 for each count of conviction.  
10 So that's the sentence that I intend to impose.

11 Is there any legal impediment to my imposing that  
12 sentence, Mr. Bondy?

13 MR. BONDY: There is no legal impediment, your Honor.

14 THE COURT: Mr. Mukhi?

15 MR. MUKHI: No, your Honor.

16 THE COURT: Let me ask you to stand, if you would,  
17 Mr. Jose Luis.

18 Mr. Jose Luis, having accepted your guilty plea last  
19 year, and having adjudged you guilty then, I now sentence you  
20 as follows: I sentence you to 84 months to run concurrently on  
21 Counts One and Five of 12 Cr. 794 and One of the New Jersey  
22 indictment, 13 Cr. 945. I'll also impose a sentence of 60  
23 months to run concurrently on Counts Two and Four of the New  
24 York indictment and Count Two of the New Jersey indictment.  
25 But all of that together will be a total sentence of 70 months,

E3LMQUIS

1 to then be followed by a mandatory consecutive term of 24  
2 months on Count Three of the New York indictment and Count  
3 Three of the New Jersey indictment. Those last two will run  
4 concurrent, but they will each be consecutive to the sentence  
5 imposed on the other counts. It's in total 94 months  
6 incarceration. It's not 94 months. It's 108 months.

7 I am not going to impose a term of supervised release,  
8 as I said. I am not going to impose a fine. I don't think you  
9 have the ability to pay a fine, but I will order to you pay  
10 restitution in the amount I specified before, \$10,139,452.11  
11 and forfeiture in the same amount as well as a mandatory  
12 special assessment of \$800.

13 Mr. Bondy, are there any recommendations would you  
14 like to make to the Bureau of Prisons?

15 MR. BONDY: I would ask your Honor that the defendant  
16 be housed in a location suitable for his security  
17 classification near his family in the District of New Jersey.

18 THE COURT: In the District of New Jersey. I will  
19 recommend that, Mr. Jose Luis. I can't order that. The Bureau  
20 of Prisons will make a designation, but I will recommend in the  
21 strongest possible terms that you be housed at a facility as  
22 close to your family as possible so that they can visit you as  
23 often as possible.

24 There are open counts, Mr. Mukhi?

25 MR. MUKHI: None, your Honor.

E3LMQUIS

1 THE COURT: I should tell you, Mr. Jose Luis, you have  
2 a right to appeal this sentence. You may have waived that  
3 right in your plea agreement. I think you have, in light of  
4 the sentence that I imposed. But if you feel or believe that  
5 you have a basis to appeal this sentence, then you would need  
6 to file a notice of appeal within two weeks. Talk to Mr. Bondy  
7 about that. He will assist you in filing that notice of  
8 appeal. But as I said before, I think the sentence that I  
9 imposed is below the maximum sentence I could have imposed  
10 according to the agreement, which means that you've agreed to  
11 waive any right to appeal or otherwise challenge the sentence.

12 Is there anything else we should cover today,  
13 Mr. Mukhi?

14 MR. MUKHI: No, your Honor.

15 THE COURT: Mr. Bondy?

16 MR. BONDY: No, your Honor.

17 THE COURT: Have a seat for just one second.

18 This is a sad day. It's always a sad day. Sentencing  
19 is not something I look forward to or enjoy. It's the most  
20 important thing I do. But I'm always mindful that it's a very  
21 difficult thing for a defendant like Mr. Jose Luis and a very  
22 difficult thing for family members and friends like all of you.  
23 I have no doubt you were hoping for a lower sentence and I  
24 respect that, I do. I have explained my sentence and tried to  
25 articulate why it is that I thought this was the appropriate

E3LMQUIS

1 sentence. You may disagree with that and I respect that, also.  
2 I hope at the very least you leave here believing that at least  
3 it was a fair system, it was a system that was respectful and  
4 tried to take into account all these different factors and  
5 didn't overlook the man here in front of us.

6 I do believe that this is a good man. This crime  
7 doesn't define you, Mr. Jose Luis. There is much more to you  
8 than this. It's a serious crime. You have to pay a penalty  
9 for it. It's a pretty lengthy penalty that's been imposed.  
10 That doesn't mean this is the end of the story for you. There  
11 is much more to you and much more than to your life.

12 My wish for you is you will serve this sentence, of  
13 course, because that you will continue to be the important  
14 friend and family member that you are to so many people here  
15 today and that ultimately, when you are released, you'll have a  
16 life that is worthy of you and worthy of them. You're a  
17 talented person. I think a good person. And so I hope that  
18 you will live the rest of your life in a way that you can be  
19 proud of and that your family can be proud of, because you  
20 deserve that. And I wish you health and I wish you happiness.

21 And I ask those who are here today, continue to  
22 support this man. You've been here today. You've written  
23 letters to me. You've been very supportive. That's a blessing  
24 and I know he appreciates it. But don't forget him now. He  
25 will continue to need your support, perhaps more than ever.

E3LMQUIS

1           Mr. Jose Luis, remember you also need to support these  
2 people and be a friend and be a father and a son and all things  
3 that you have obligations to. So take that seriously. Even in  
4 jail. You can have a meaningful difference on the lives of  
5 other people. I hope you will do that and I wish you the best.

6           Mr. Bondy, thank you. As always, I am appreciative of  
7 all of the effort that you put into matters like this. Might  
8 have been more of a sentence than you were hoping for, too, but  
9 you and I disagree on things, but there is always respect.

10          THE COURT: Mr. Mukhi, you're doing people's work, but  
11 you were very conscientious as well.

12          Let me thank the interpreter, the marshals, as well as  
13 the court reporter.

14          Let me wish all of you good luck, and God bless.

15          Thank you.

16                           o0o